

FACSIMILE TRANSMISSION COVER SHEET

Date: August 25, 2004

Attorney Docket No. SAA-25 (122.161)
U.S. Application S/N: 09/454,566

TO:	Mr. Derek Woods
COMPANY/FIRM:	USPTO
PHONE NO.:	
FACSIMILE NO.:	703-872-9306

RECEIVED
CENTRAL FAX CENTER
AUG 25 2004

FROM:	James A. Retter
COMPANY/FIRM:	Ware, Fressola, Van Der Sluys & Adolphson LLP
PHONE NO.:	(203)261-1234
FACSIMILE NO.:	(203)261-5676

CONFIRMATION BY MAIL: Yes, with enclosures (IDS references, and checks)Number of pages (including this transmittal page): 39

If facsimile transmission is incomplete, please notify sender at (203)261-1234.

WARE, FRESSOLA, VAN DER SLUYS & ADOLPHSON LLP
BRADFORD GREEN, BUILDING FIVE
755 MAIN STREET, MONROE, CONNECTICUT 06468
TELEPHONE NO. (203) 261-1234
FACSIMILE NO. (203) 261-5676

COMMENTS

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO BE ATTORNEY-CLIENT PRIVILEGED. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE AGENT OR EMPLOYEE RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE RECEIVED MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE. THANK YOU.

Attorney Docket No.: SAA-25 (122.161)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**RECEIVED**
CENTRAL FAX CENTER
AUG 25 2004

First named inventor: David. T. Lindner

Serial No.: 09/454,566

Filed: Dec. 7, 1999

Title: Method for adapting a computer-to-computer protocol ...

Group Art Unit: 2154

Examiner: Lin, Kenny S.

FURTHER RESPONSE TO DECISION ON PETITION

(VIA FACSIMILE TO 703-872-9306)

Office of Petitions
U.S. Patent and Trademark Office
Attn: Mr. Derek Woods
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The following is further in response to a Decision on Petition mailed 28 July 2004.

In the above case a Notice of Abandonment was received on Jan. 8, 2004, for failure to file a timely and proper response to a Notice of Allowance dated August 23, 2003. A response to the Notice of Allowance was filed, but there was not enough money in the deposit account to cover the fees due.

A petition to revive under 37 CFR 1.137(a) was filed via facsimile January 29, 2004. This petition was filed without knowledge of the deficiency in the deposit account. The petition was dismissed in a Decision on Petition mailed 28 July 2004.

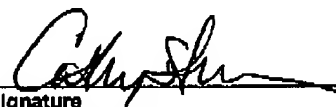
CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING
☒ Deposited with the United States Postal Service with sufficient postage as first class Mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

FACSIMILE
☒ Transmitted by facsimile to the U.S. Patent and Trademark Office.

Date: 8.25.04



Signature
Mrs. Cathy Stummer
(type or print name of person certifying)

Attorney Docket No.: SAA-25 (122.161)
Serial No.: 09/454,566

(The petition mailed January 29, 2004, was refaxed on March 24, 2004, because of not having received an answer to the petition filed by facsimile on January 29, 2004.)

Another petition was filed on May 7, 2004, after discovering that the deficiency in the deposit account was the reason the Notice of Abandonment was mailed. This other petition has yet to be acted on, and applicant requests here that the other petition--filed May 7, 2004--be considered to be in response to the Decision on Petition mailed 28 July 2004.


Applicant has now discovered another reference that applicant would like to have considered before the case issues, assuming the decision on the petition filed May 7, 2004, is favorable. For the reference to be considered, the case must be withdrawn from issue.

Per a phone conversation with Mr. Derek Woods, we are enclosing a copy of the petition filed May 7, 2004 (Attachment A), a copy of a power of attorney appointing the undersigned as an associate attorney in this matter (Attachment B), and a petition to withdraw from issue (Attachment C) in order to consider further references provided by in an Information Disclosure Statement, also enclosed (Attachment D), and a corresponding request for continued examination (Attachment E), as well as all fees for same except for the issue fee, which is to be paid out of the deposit account indicated in the petition of May 7, 2004.

*****If any fee and/or extension is required in addition to any enclosed herewith, please charge Account No. 23-0442. (In particular, if there is any deficiency in the deposit account indicated in the May 7, 2004, petition, please charge the issue fee and any other fees indicated to be charged to that account instead to Account No. 23-0442.)**

Aug. 25, 2004
Date
WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, CT 06468-0224
(Cust. No.: 004955)

Respectfully submitted,


James A. Retter
Registration No. 41,266

tel: (203) 261-1234
fax: (203) 261-5676
email: jar@wfva.net

Attachment A

PATENT
09/454,566**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re: U.S. Patent Application of:
David LINDNER

Application No. 09/454,566

Filed: December 7, 1999

For: A METHOD FOR ADAPTING A
COMPUTER-TO-COMPUTER
COMMUNICATIONS PROTOCOL
FOR USE IN AN INDUSTRIAL
CONTROL NETWORK

Examiner: Kenny S. LIN

Conf. No: 3884

Art Unit: 2154

Atty Docket No: SAA-25

RECEIVED
CENTRAL FAX CENTER
AUG 25 2004**PETITION FOR REVIVAL OF AN APPLICATION**
ABANDONED UNINTENTIONALLY UNDER
37 CFR 1.137(b)MR. DEREK WOODS
OFFICE OF PETITIONS
PO Box 1450
ALEXANDRIA, VA 22313-1450

Dear Mr. Woods:

This letter is in reply to the Notice of Abandonment dated January 8, 2004. The above-identified application became abandoned for failure to file a timely and proper reply to a Notice of Allowance dated August 23, 2003. Applicant hereby petitions for revival of this application.

CERTIFICATE OF TRANSMISSION

I do certify that this correspondence, along with the Issue Fee Transmittal, a Deposit Account Statement, a Acknowledgement Post Card, and two FAX receipts are being facsimile transmitted to the United States Patent and Trademark Office, FAX No. (703) 872-9306 on May 7, 2004.



Richard A. Baker, Jr.

PATENT
09/454,566

Please charge the Petition Fee for Petition (37 CFR 1.17(m)), in the amount of \$1,330.00 and the Issue Fee of \$1,330 (for a total amount of \$2660) to the Deposit Account 19-3875 (SAA-25). The Director is hereby authorized to charge any additional fees that may be required, or credit any overpayment to this Deposit Account.

Since this utility patent application was filed after June 8, 1995, no terminal disclaimer is required.

The entire delay in filing the required reply to the Notice of Allowance until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. On November 20, 2003 Karen Pyka mailed the Fee Transmittal on the present application to the US Patent and Trademark Office, charging the Issue Fee to Deposit Account 19-3875, as evidenced by the attached Fee Transmittal form. On that date, the Deposit Account had sufficient funds to cover the issue fee, as seen in the attached Deposit Account Statement. The USPTO received the Fee transmittal on November 24th, as seen in the attached Acknowledgement Post Card. However, the Deposit Account balance fell below the amount need to cover the Issue Fee on November 24th and was not replenished for several days, as seen in the attached Deposit Account Statement. As a result, the present application became unintentionally abandoned.

Since the time that we received the Notice of Abandonment, we have diligently attempted to revive this application, as evidenced in the two FAX receipts of Petitions for Revival under 37 CFR 1.137(a). These petitions were sent without knowledge of the deficiency of the Deposit Account as described above.

PATENT
09/454,566

Applicants request that the USPTO grant this petition and allow the present application to issue as a US Patent.

Respectfully submitted,

By: 

Richard A. Baker, Jr.
Reg. No. 48,124

SCHNEIDER ELECTRIC AUTOMATION BUSINESS
1415 South Roselle Road
Palatine, IL 60067
Telephone: 978/975-9789
Facsimile: 847/925-7419

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail Stop ISSUE FEE**
Commissioner for Patents
Alexandria, Virginia 22313-1450
 or **REX (703) 746-4000**

INSTRUCTIONS: This form should be used for transmitting the **ISSUE FEE** and **PUBLICATION FEE** (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance notice and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (A) specifying a new correspondence address; and/or (B) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Use Legible type-set with zip code/extension or use Block 1)
 23569 7590 03/20/2003

SQUARE D COMPANY
INTELLECTUAL PROPERTY DEPARTMENT
1415 SOUTH ROSELLE ROAD
PALATINE, IL 60067

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmittal.

Certificate of Mailing or Transmittal
 I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being furnished as recommended to the USPTO, on the date indicated below.

Karen Pyka (Depositor's name)
Karen Pyka (Signature)
November 20, 2003 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,566	12/07/1999	DAVID T. LINDEBER	9AA-25 (122,161)	3884

TITLE OF INVENTION: METHOD FOR ADAPTING A COMPUTER-TO-COMPUTER COMMUNICATION PROTOCOL FOR USE IN AN INDUSTRIAL CONTROL SYSTEM

APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1300	\$0	\$1300	11/20/2003

EXAMINER	ART UNIT	CLASS-SUBCLASS
LIN, KENNY S	2154	700-009000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.563).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (naming as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. Michael J. Fernal
 2. Larry I. Golden
 3. _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.
 (A) NAME OF ASSIGNEE
 (B) RESIDENCE (CITY and STATE OR COUNTRY)

SCHNEIDER AUTOMATION INC.

North Andover, MASSACHUSETTS

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
☐ Publication Fee
☐ Advance Order - # of Copies -0-

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2031 is attached.

If The Director is hereby authorized to charge the required fee(s), or credit any overpayment to the Depositor's Account Number 99-5875 (enclose an item copy of this form) 3875-25

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) *Larry I. Golden* (Date) 11/20/03

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.111. The information is required to obtain or retain a benefit by the public which is to be filed (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)



United States Patent and Trademark Office

Deposit Account Statement

Requested Statement Month:

November 2003

Deposit Account Number:

193875

Name:

SQUARE D. COMPANY

Attention:

LARRY I. GOLDEN

Address:

1415 S. ROSELLE ROAD

City:

PALATINE

State:

IL

Zip:

60067

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
11/04	7	10694462	SAA-99	8021	\$40.00	\$22,193.57
11/05	96	5109897	DL-51	1553	\$3,220.00	\$18,973.57
11/07	77	5514964	OSH-5	1552	\$2,090.00	\$16,883.57
11/07	78	6061603	SAA-1-A	1551	\$910.00	\$15,973.57
11/10	2	6060797	RLC-35-1	1551	\$910.00	\$15,063.57
11/14	4	5516302	OX-0046-4	1552	\$2,090.00	\$12,973.57
11/14	16	5517487	SAI-40	1552	\$2,090.00	\$10,883.57
11/14	22	6064629	QUA-10	2551	\$455.00	\$10,428.57
11/14	23	5515597	RLC-16	1552	\$2,090.00	\$8,338.57
11/18	55	2109820		6205	\$100.00	\$8,238.57
11/18	56	2109820		6208	\$200.00	\$8,038.57
11/19	353	09929324	SAA-65	1501	\$1,330.00	\$6,708.57
11/19	354	09929324	SAA-65	1504	\$300.00	\$6,408.57
11/19	358	09957093	SPL35/47181-	1501	\$1,330.00	\$5,078.57
11/19	359	09957093	SPL35/47181-	1504	\$300.00	\$4,778.57
11/24	6	5519368	CRE-0010	1552	\$2,090.00	\$2,688.57
11/24	11	5519175	DS-0001	1552	\$2,090.00	\$598.57
11/28	1	09748055	SPE-27	1201	\$84.00	\$514.57
11/28	138	SERVICE CHARGE		9202	\$25.00	\$489.57

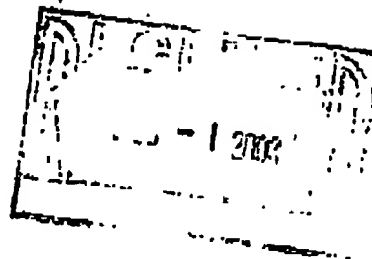
START
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SUM OF
CHARGES
\$21,744.00

SUM OF
REPLENISH
\$0.00

END
BALANCE
\$489.57

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Applicant:	LINDNER et al,	Docket No.	SAA-25
Serial No.	09/454,566	Date:	November 20, 2003
Filed:	December 7, 1999	Attorney Ref.	MJP/kp
Examiner:	LIN, Kenny S.	Comp. No.	3884
		Group Art Unit:	2154

Title: METHOD FOR ADAPTING A COMPUTER-TO-COMPUTER COMMUNICATION PROTOCOL FOR USE IN AN INDUSTRIAL CONTROL SYSTEM

Enclosed: Issue Fee Transmitted with authorization to charge fee, one (1) page, in duplicate; three (3) sheets of Formal Invention Drawing comprising FIG. 1-4, together with this postcard.



The date stamp of the U.S. PTO herein acknowledges receipt on the date indicated thereby of the above-identified documents.
CPD-39

* * * Transmission Result Report (MemoryTX) (May. 7. 2004 3:04PM) * * *

1)
2)

Date/Time: May. 7. 2004 3:02PM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
4226 Memory TX	817038729306	P. 8	OK	

Reason for error

E.1) Hang up or line fail
E.3) No answerE.2) Busy
E.4) No facsimile connectionPATENT
08464,588

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: U.S. Patent Application of:
David LINDNER

Application No. 09/434,566

Filed December 7, 1999

For: A METHOD FOR ADAPTING A
COMPUTER-TO-COMPUTER
COMMUNICATIONS PROTOCOL
FOR USE IN AN INDUSTRIAL
CONTROL NETWORK

Examiner: Kenny S. LIN

Conf. No: 3884

Art Unit: 2154

Atty Docket No: SAA-25

**PETITION FOR REVIVAL OF AN APPLICATION
ABANDONED UNINTENTIONALLY UNDER
37 CFR 1.137(b)**Mr. Derek Woods
Office of Petitions
PO Box 1450
ALEXANDRIA, VA 22313-1450

Dear Mr. Woods:

This letter is in reply to the Notice of Abandonment dated January 6, 2004. The above-captioned application became abandoned for failure to file a timely and proper reply to a Notice of Abandonment dated August 23, 2003. Applicant hereby petitions for revival of this application.

ENCLOSURE (SEE TRANSMISSION)

I do hereby declare that the foregoing, along with the fee provided, is a true and correct statement, to the best of my knowledge and belief, of the facts and circumstances relating to the above-captioned application, and that I am a citizen of the United States and am duly qualified to practice as an attorney in the United States.


Richard A. Bales, Jr.

Attachment B

Practitioner's Docket No. 122-161 (SAA-25)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: David T. Lindner et al.

Application No.: 09/7454,566 Group No.: 2154

Filed: Dec. 7, 1999 Examiner: Lin, Kenny S.

For: Method for adapting a computer-to-computer protocol for use in an industrial control system

Commissioner for Patents

P.O. Box 1450, Alexandria, VA 22313-1450

ASSOCIATE POWER OF ATTORNEY (37 C.F.R. § 1.34)

NOTE: Submission of a Power of Attorney after issuance of the Notice of Allowance in an application does not result in a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10). See Notice of May 28, 2001, 1267 OG 111-112, June 28, 2001.

Please recognize as Associate Practitioner in this case:

Name of practitioner James A. Retter

Address Ware, Fressola, Van Der Sluis & Adolphson LLP
755 Main Street, P.O. Box 224, Monroe, CT 06468-0224

Reg. No. 41,266Tel. No. (203) 261-1234

NOTE: Correspondence will be held with the associate attorney, unless the principal attorney directs otherwise.
 MPEP § 403.01.

NOTE: An associate attorney may not appoint another attorney. M.P.E.P. § 402.02-6d ad.

Kareem N. Irfan 8/17/04
 SIGNATURE OF PRINCIPAL PRACTITIONER OF
 RECORD

Kareem N. Irfan

(Type or print name of practitioner)

Square D Company

P.O. Address

1415 South Rosella Rd., Palatine, IL 60067

Reg. No.: 32,326

Tel. No.: (847) 925-3452

Customer No.:

(Associate Power of Attorney [12-7])

Attachment C

Practitioner's Docket No. 122.161 (SAA-25)**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: David T. Lindner et al.

Application No.: 09 / 454,566 Group No.: 2154

Filed: Dec. 7, 1999

For: Method for Adapting a... Examiner: Lin, Kenny S.

Date of mailing "Notice of Allowance and

Base Issue Fee Due" _____

Batch No. _____

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR WITHDRAWAL FROM ISSUE—ISSUE FEE PAID
(37 C.F.R. § 1.313(c))

NOTE: "Any petition filed under 37 C.F.R. 1.313(b) to withdraw an application from issue after payment of the issue fee should be clearly marked "Petition under 37 C.F.R. 1.313(b)" and be wither submitted by facsimile or hand-carried to the Office of Patents (see M.P.E.P. § 1730 for the facsimile number and location)." M.P.E.P., § 1308, 8th Edition.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 *

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory)

TRANSMISSION

☒ facsimile transmitted to the Patent and Trademark Office, (703) 872-9306

Signature Cathy SturmerDate: August 25, 2004Cathy Sturmer

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.8(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Petition for Withdrawal from Issue—Issue Fee Paid (37 C.F.R. § 1.313(b)) [9-33]—page 1 of 3)

NOTE: In the Notice of May 9, 2000 "Patents to Issue within Twelve Weeks after Satisfaction of All Outstanding Requirements, Including Issue Fee Payment and Corrected Drawings" [OG, May 9, 2000, page 39] the PTO pointed out the following:

The USPTO implemented the new patent publication system. . . . Under this current patent publication system, the electronic capture of most of the information to be printed on the patent begins soon after the allowed application is received in the Office of Patent Publication, in advance of the satisfaction of outstanding requirements, i.e., issue fee and drawings. The application file is not available for any further processing during this initial electronic capture process. In order to implement the new publication system efficiently, the USPTO encourages applicants to take steps to minimize disruptions in the printing process. The USPTO encourages applicants to file items such as amendments, information disclosure statements, petitions, and corrected or formal drawings as soon as possible during examination of patent applications instead of during the post-allowance time frame. If papers are filed after allowance, please allow at least six weeks after the Notice of Allowance and Issue Fee Due has been received before inquiring about any post allowance correspondence.

PETITION

1. Applicant hereby petitions for the withdrawal of this application from issue.

PATENT ISSUE FEE

2. The issue fee for this case has been paid on May 7, 2004 with a petition to revive
(complete the following if known)

This application is scheduled to

- ☐ issue on _____
☐ as patent _____

REASON(S) FOR WITHDRAWAL REQUEST

NOTE: "Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except (1) Unpatentability of one or more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable; (2) Consideration of a request for continued examination in compliance with § 1.114; or (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application." 37 C.F.R. § 1.313(c).

3. The reason for the request for withdrawal from issue is:

(check applicable item(s) below)

- (a) ☐ one or more of the claims are unpatentable.
 (b) ☒ consideration of a request for continued examination under § 1.114.
 (c) ☐ for express abandonment to permit consideration of an information disclosure statement under § 1.97 in a continuing application.
 (d) ☐ for express abandonment in favor of a continuing application.

Further details as to the reason(s) for this withdrawal request are set forth on the attached one sheet(s).

(Petition for Withdrawal from Issue—Issue Fee Paid (37 C.F.R. § 1.313(b)) [P-33]—page 2 of 3)

AMENDMENT

NOTE: Any amendment accompanying a petition to withdraw an application from issue should comply with the requirements of § 312 (Amendment after allowance).

4. ☐ Accompanying this petition is an amendment.

PETITION FEES**5. PETITION FEES (37 C.F.R. § 1.17(h))**

The fee set forth in § 1.17(h), required by 37 C.F.R. § 1.313(a), is paid as follows:

- ☒ Attached is a ☒ check ☐ money order in the amount of \$ 130.00
☒ Authorization is hereby made to charge the amount of \$ _____
☒ to Deposit Account No. 23-0442
☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Reg. No.: 41,266

Tel. No.: (203) 261-8825

Customer No.: 004955


SIGNATURE OF PRACTITIONER

James A. Retter

(type or print name of practitioner)

Ware, Fressola, Van Der Sluys & Adolphson III
P.O. Address

755 Main St., P.O. Box 224

Monroe, CT 06468-0224

Plus one Added Pages

(Petition for Withdrawal from Issue—Issue Fee Paid (37 C.F.R. § 1.313(b)) [9-33]—page 3 of 3)

**PETITION FOR WITHDRAWAL FROM ISSUE—ISSUE FEE PAID
(37 C.F.R. § 1.313(b))**

ADDED PAGE FOR REASON(S)

**Applicant wishes further references to be considered, as provided in
attached PTO-1449.**

(use additional pages, if necessary)

Added Page 1

(Petition for Withdrawal from Issue—Issue Fee Paid (37 C.F.R. § 1.313(b))—Added Page [9-33])

WARE, FRESSOLA
VAN DER SLUYS & ADOLPHSON LLP

PAY TO THE ORDER OF
ONE HUNDRED THIRTY AND NO/100

Commissioner of Patents & Trademarks
122-161

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[Signature]

WARE, FRESSOLA
VAN DER SLUYS & ADOLPHSON LLP

26019

26019

08/25/04

Commissioner of Patents & Trademarks

\$130.00

INVOICE # 082504

122-161

Attachment D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Application of: Linder et al.

Attorney Docket: SAA-25 (122.161)

Serial No.: 09/454,566

Group Art Unit: 2154

Filed: December 7, 1999

Examiner: Kenny S. Lin

RECEIVED
CENTRAL FAX CENTER
AUG 25 2004**For: METHOD FOR ADAPTING A COMPUTER-TO-COMPUTER
COMMUNICATION PROTOCOL FOR USE IN AN INDUSTRIAL CONTROL SYSTEM**

Office of Petitions
United States Patent & Trademark Office
Attn: Mr. Derek Woods
P.O. Box 1450
Alexandria, VA 22313-1450
Facsimile: 703-872-9306

INFORMATION DISCLOSURE STATEMENT

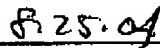
Sir:

Applicant submits herewith references of which they are aware, which they believe may be material to the examination of this application and in respect of which they may have a duty to disclose in accordance with 37 CFR 1.56.

While this Information Disclosure Statement may be "material" pursuant to 37 CFR 1.56, it is not intended to constitute an admission that any document referred to herein is "prior art" for this invention unless specifically designated as such.

In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined under 37 CFR 1.56(a) exists.

I hereby certify that this correspondence is being transmitted today
via facsimile 703-872-9306 to Office of Petitions, United States
Patent & Trademark Office, Attn: Derek Woods, P.O. Box 1450,
Alexandria, VA 22313-1450


Cathy Sturmer
Date

(IDS Transmittal - Page 1 of 2)

Attorney Docket No. SAA-25 (122.161)
Serial No. 09/454,566

A PTO-1449 with cited references are also enclosed.

We also enclose a copy of the International Search Report. Please note though that in the case of U.S. Patent no. 5,949,756, at least the abstract should also be mentioned.

Should any fees be due of which the undersigned is unaware, the Commissioner is hereby authorized to charge deposit account 23-0442 any fee deficiency required to submit this IDS.

Respectfully submitted,



James A. Retter
Registration No. 41,266

Date: Aug. 25, 2004

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
Bradford Green, Building 5
755 Main Street, PO Box 224
Monroe, CT 06468
(203) 261-1234

Sheet 1 of 1

FORM PTO-1449 INFORMATION DISCLOSURE STATEMENT				ATTY DOCKET NO. SAA-25 (122.161)		SERIAL NO. 09/454,566	
				APPLICANTS: Lindner et al.			
				FILING DATE: December 7, 1999		ART UNIT: 2154	
UNITED STATES PATENT DOCUMENTS							
EXAM. INITIAL		DOCUMENT NUMBER	DATE	INVENTOR/ASSIGNEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
		U.S. 5,949,756	Sept. 7, 1999	Kienberger et al.	370	232	
		U.S. 5,530,643	June 25, 1996	Hodorowski	364	191	
FOREIGN PATENT DOCUMENTS							
		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO
		WO 99/13388	Mar. 18, 1999	International			
		EP 0 903 655 A2	Mar. 24, 1999	Europe			
OTHER DOCUMENTS (INCLUDING AUTHOR, TITLE, DATE, PERTINENT PAGES, ETC.)							
Examiner Kenny S. Lin				Date:			

INTERNATIONAL SEARCH REPORT

Intern. Appl. No.
PCT/US 00/33001A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 G05B19/042 G05B19/418

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 G05B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)
EPO-Internal, WPI Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	WO 99 13388 A (SQUARE D CO) 18 March 1999 (1999-03-18) abstract page 1, line 19 -page 3, line 21 page 21, line 4 -page 28, line 18; figure 5	1
A	EP 0 903 655 A (HEWLETT PACKARD CO) 24 March 1999 (1999-03-24) column 1, line 3 -column 5, line 42; figure 1	1
A	US 5 530 643 A (HODOROWSKI JOHN) 25 June 1996 (1996-06-25) abstract column 5, line 37 -column 10, line 53 column 22, line 25 -column 23, line 22	1

-/-

☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents:

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (As specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance: the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance: the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
- *Z* document member of the same patent family

Date of the actual completion of the international search

28 March 2001

Date of making of the international search report

11/04/2001

Name and mailing address of the ISA

European Patent Office, P.B. 5816 Patentkan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax (+31-70) 340-3016

Authorized officer

Helot, H

Form PCT/ISA/210 (Second sheet) (July 1992)

INTERNATIONAL SEARCH REPORT

Intern. Application No.
PCT/US 00/33001

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT		
Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 5 949 756 A (KIENBERGER) 7 September 1999 (1999-09-07) column 1, line 60 -column 2, line 63	1

Form PCT/ISA/210 (continuation of second sheet) (July 1992)

page 2 of 2



US005530643A

United States Patent [19]

Hodorowski

[11] Patent Number: **5,530,643**
 [45] Date of Patent: **Jun. 25, 1996**

[54] **METHOD OF PROGRAMMING INDUSTRIAL CONTROLLERS WITH HIGHLY DISTRIBUTED PROCESSING**

5,103,421 4/1992 Ward et al. 395/700
 5,142,469 8/1992 Weisenborn 364/146

[75] Inventor: John Hodorowski, Halcs Corners, Wis.

[73] Assignee: Allen-Bradley Company, Inc., Milwaukee, Wis.

[21] Appl. No.: 360,862

[22] Filed: Dec. 21, 1994

Related U.S. Application Data

[63] Continuation-in-part of Ser. No. 111,237, Aug. 24, 1993, Pat. No. 5,452,201.

[51] Int. Cl.⁶ G06F 19/00

[52] U.S. Cl. 364/191; 364/131; 364/188; 364/578; 395/159

[58] Field of Search 364/131-136, 364/146, 147, 185, 188-192, 488, 491, 578; 395/155, 159, 161, 500, 700

[56] References Cited

U.S. PATENT DOCUMENTS

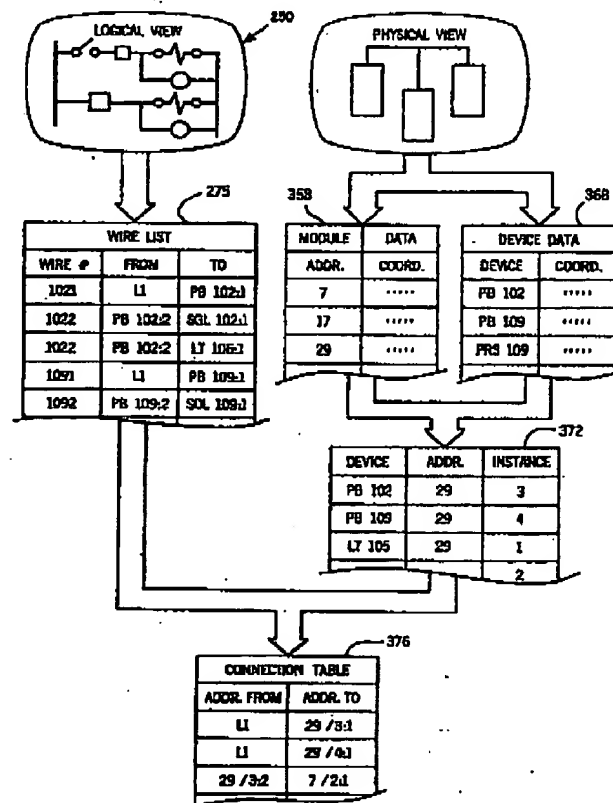
4,831,525 5/1989 Saito et al. 395/700
 5,051,938 9/1991 Hydne 364/578

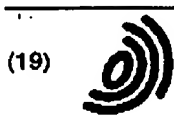
Primary Examiner—Roy N. Envall, Jr.
 Assistant Examiner—Steven R. Garland
 Attorney, Agent, or Firm—Keith M. Baxter; John M. Miller; John J. Horn

[57] ABSTRACT

A highly distributed industrial control system employs a number of separate control modules communicating together on a shared communications medium. Each module emulates one or more basic electrical parts having electrical terminals, such as switches and relays, and transmits production messages indicating the state of the parts, such as conducting current or not. A connection list for each part in each control module defines message identifiers of other parts whose production messages are received by the control module and interpreted as current flow to one or more of its parts. The control system is programmed by generating a schematic on a programming terminal showing connections of terminals on symbols of the parts such as would represent actual wiring of the emulated parts. A parts layout diagram is used in conjunction with the schematic to identify each part to a physical module. In this way the program is divided to run concurrently on the various modules without explicit instructions by the programmer.

15 Claims, 17 Drawing Sheets





Europäisches Patentamt
European Patent Office
Office européen des brevets



(11) EP 0 903 655 A2

(12)

EUROPEAN PATENT APPLICATION

(43) Date of publication:
24.03.1999 Bulletin 1999/12

(51) Int Cl.⁸: G05B 19/418, G05B 19/042,
H04J 3/06, G06F 1/14

(21) Application number: 98307645.6

(22) Date of filing: 21.09.1998

(84) Designated Contracting States:
AT BE CH CY DE DK ES FI FR GB GR IE IT LI LU
MC NL PT SE
Designated Extension States:
AL LT LV MK RO SI

(72) Inventor: Edison, John C.
Palo Alto, California 94303 (US)

(74) Representative: Powell, Stephen David
WILLIAMS, POWELL & ASSOCIATES,
4 St Paul's Churchyard
London EC4M 8AY (GB)

(30) Priority: 22.09.1997 US 934792

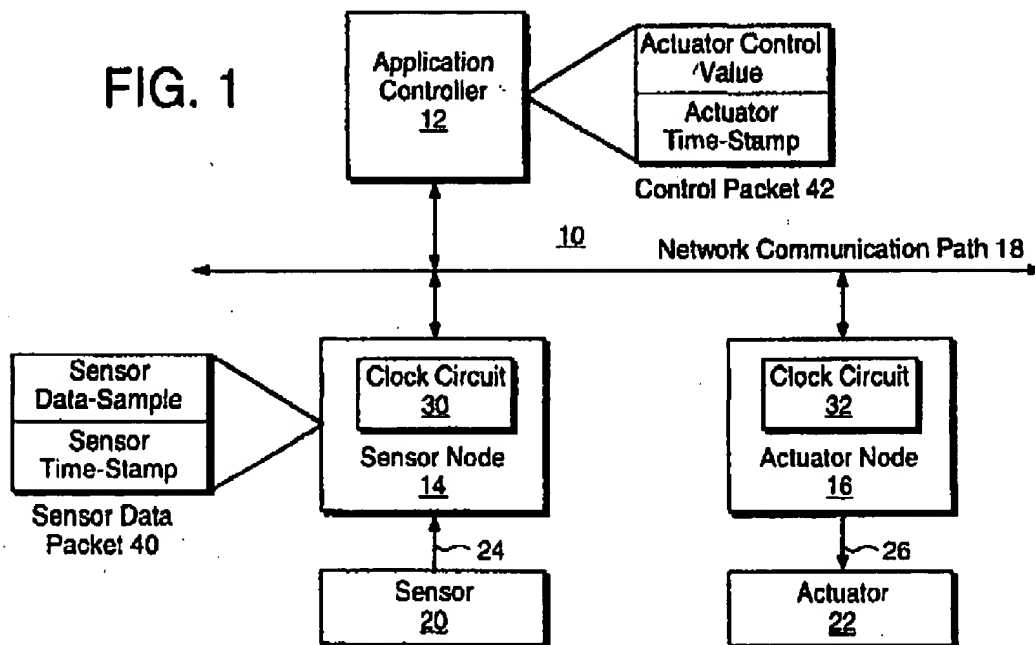
(71) Applicant: Hewlett-Packard Company
Palo Alto, California 94304 (US)

(54) Control system with nodes

(57) A control system (10), which provides accurate timing information for sensor data samples and accurate timing for the application of control values to actuators (22) in the face of nondeterministic communication, em-

plays circuitry for accurately associating sensor data samples and sensor time-stamps and circuitry for triggering the application of the control values to an actuator (22).

FIG. 1



Printed by Jouve, 75001 PARIS (FR)

EP 0 903 655 A2

WORLD INTELLECTUAL PROPERTY ORGANIZATION
International Bureau



INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(51) International Patent Classification: 6 G05B 19/428	(11) International Publication Number: WO 99/13388
A1	(43) International Publication Date: 23 March 1999 (18.03.99)

(21) International Application Number: PCT/US91/8708

(B) Designated States: CA, JP, MX, European patent (A), BR, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LV, MC, NL, PT, SE.

10 September 1997 (1009 GMT) US

(71) Applicant: SQUARE D COMPANY (USUS); 1415 South

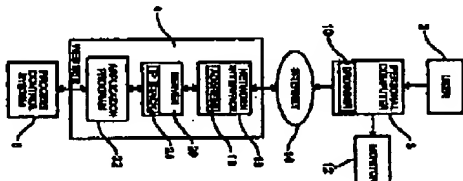
(77) Lovett, S.W.A.L.E.S., Andrew, C.: 10 Woodtree Road, WILMINGTON, NH 03087 (US).

(74) Agents: GOLDEN, LARRY, L.; Square D Company, General Patent Counsel, 1415 South Roselle Road, Palmdale, IL 60067 (US).

(54) Title: APPARATUS FOR CONTROLLING INTERNETWORK COMMUNICATIONS

(57) Abstract:

An obvious slippage for the number of real time control data with guaranteed delivery times between devices on a personal wireless network and its local cellular gateway. A money saving device like a TCP/IP router and is configured to control the rate at which messages are forwarded from the non-real-time to the real time portion of the network, keeping the loading of the real time portion stable regardless of the external non-real time communication demand. Real time data is prioritized and rescheduled in a regular sequence, with the cyclic update period times. The length of any communication message necessary to transmit this information, such as any sequencing and acknowledgment overhead, is calculated in advance and represented. Each device with authority to transmit on the shared medium is given a time budget, calculated so that the total transmission quality in use does it deliberately limited to some fraction of the maximum transmission capability of the network. All communications from devices whose traffic loadings cannot be so monitored are arranged to pass through the proxy device in order to gain access to the decentralized network, and the proxy reduces the outage links by introducing deliberate delays to the request manager if necessary.



Codes used to identify States party to the PCT on the front pages of pamphlets prohibiting international opium/cons under the PCT

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AU	Australia	29	Phoenix	20	Long Beach	55	San Diego
AV	Australia	30	Phoenix	21	Long Beach	56	San Diego
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BB	Bahamas and Baha	32	Phoenix	23	Long Beach	58	San Diego
BC	British Columbia	33	Phoenix	24	Long Beach	59	San Diego
BD	British Columbia	34	Phoenix	25	Long Beach	60	San Diego
BE	Belgium	35	Phoenix	26	Long Beach	61	San Diego
BF	Belgium	36	Phoenix	27	Long Beach	62	San Diego
BH	Bahamas and Baha	37	Phoenix	28	Long Beach	63	San Diego
BI	Bahamas and Baha	38	Phoenix	29	Long Beach	64	San Diego
BJ	Bahamas and Baha	39	Phoenix	30	Long Beach	65	San Diego
BK	Bahamas and Baha	40	Phoenix	31	Long Beach	66	San Diego
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BM	Bahamas and Baha	42	Phoenix	33	Long Beach	68	San Diego
BN	Bahamas and Baha	43	Phoenix	34	Long Beach	69	San Diego
BO	Bahamas and Baha	44	Phoenix	35	Long Beach	70	San Diego
BP	Bahamas and Baha	45	Phoenix	36	Long Beach	71	San Diego
BQ	Bahamas and Baha	46	Phoenix	37	Long Beach	72	San Diego
BR	Bahamas and Baha	47	Phoenix	38	Long Beach	73	San Diego
BS	Bahamas and Baha	48	Phoenix	39	Long Beach	74	San Diego
BT	Bahamas and Baha	49	Phoenix	40	Long Beach	75	San Diego
BV	Bahamas and Baha	50	Phoenix	41	Long Beach	76	San Diego
BW	Bahamas and Baha	51	Phoenix	42	Long Beach	77	San Diego
BX	Bahamas and Baha	52	Phoenix	43	Long Beach	78	San Diego
BY	Bahamas and Baha	53	Phoenix	44	Long Beach	79	San Diego
BZ	Bahamas and Baha	54	Phoenix	45	Long Beach	80	San Diego
CA	Canada	55	Phoenix	46	Long Beach	81	San Diego
CB	Canada	56	Phoenix	47	Long Beach	82	San Diego
CC	Canada	57	Phoenix	48	Long Beach	83	San Diego
CD	Canada	58	Phoenix	49	Long Beach	84	San Diego
CE	Canada	59	Phoenix	50	Long Beach	85	San Diego
CF	Canada	60	Phoenix	51	Long Beach	86	San Diego
CG	Canada	61	Phoenix	52	Long Beach	87	San Diego
CH	Canada	62	Phoenix	53	Long Beach	88	San Diego
CI	Canada	63	Phoenix	54	Long Beach	89	San Diego
CJ	Canada	64	Phoenix	55	Long Beach	90	San Diego
CK	Canada	65	Phoenix	56	Long Beach	91	San Diego
CL	Canada	66	Phoenix	57	Long Beach	92	San Diego
CM	Canada	67	Phoenix	58	Long Beach	93	San Diego
CN	Canada	68	Phoenix	59	Long Beach	94	San Diego
CO	Canada	69	Phoenix	60	Long Beach	95	San Diego
CP	Canada	70	Phoenix	61	Long Beach	96	San Diego
CQ	Canada	71	Phoenix	62	Long Beach	97	San Diego
CR	Canada	72	Phoenix	63	Long Beach	98	San Diego
CS	Canada	73	Phoenix	64	Long Beach	99	San Diego
CT	Canada	74	Phoenix	65	Long Beach	100	San Diego
CU	Canada	75	Phoenix	66	Long Beach	101	San Diego
CV	Canada	76	Phoenix	67	Long Beach	102	San Diego
CW	Canada	77	Phoenix	68	Long Beach	103	San Diego
CX	Canada	78	Phoenix	69	Long Beach	104	San Diego
CY	Canada	79	Phoenix	70	Long Beach	105	San Diego
CZ	Canada	80	Phoenix	71	Long Beach	106	San Diego
DA	Canada	81	Phoenix	72	Long Beach	107	San Diego
DB	Canada	82	Phoenix	73	Long Beach	108	San Diego
DC	Canada	83	Phoenix	74	Long Beach	109	San Diego
DD	Canada	84	Phoenix	75	Long Beach	110	San Diego
DE	Canada	85	Phoenix	76	Long Beach	111	San Diego
DF	Canada	86	Phoenix	77	Long Beach	112	San Diego
DG	Canada	87	Phoenix	78	Long Beach	113	San Diego
DH	Canada	88	Phoenix	79	Long Beach	114	San Diego
DI	Canada	89	Phoenix	80	Long Beach	115	San Diego
DJ	Canada	90	Phoenix	81	Long Beach	116	San Diego
DK	Canada	91	Phoenix	82	Long Beach	117	San Diego
DL	Canada	92	Phoenix	83	Long Beach	118	San Diego
DM	Canada	93	Phoenix	84			

Attachment E

Practitioner's Docket No. SAA-25 (122.161)**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: Lindner et al.Application No.: 09 / 454,566 Group No.: 2154Filed: December 7, 1999 Examiner: Kenny S. LinFor: **METHOD FOR ADAPTING A COMPUTER-TO-COMPUTER COMMUNICATIONS PROTOCOL
FOR USE IN AN INDUSTRIAL CONTROL NETWORK**Commissioner for Patents
Washington, D.C. 20231**REQUEST FOR CONTINUED EXAMINATION (RCE)
(37 C.F.R. § 1.114)**

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. § 1.114, for the above identified application.

NOTE: 37 C.F.R. § 1.114 Request for continued examination:

"(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☒ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 *

- ☒ with sufficient postage as first class mail.

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TRANSMISSION

- ☒ facsimile transmitted to the Patent and Trademark Office, (703) 872 9306

Signature

Date: 8-25-04Cathy Sturmer

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Request for Continued Examination (RCE) (37 C.F.R. § 1.114) [9-64]—page 1 of 6)

(c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.

(d) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief under § 1.192 or a reply brief under § 1.193(b), or related papers, will not be considered a submission under this section."

NOTE: An applicant may file a submission under 37 CFR 1.114 containing only an information disclosure statement (37 CFR 1.97 and 1.98) in an application subject to a notice of allowance under 35 U.S.C. § 151. An appeal brief or a reply brief (or related papers) will not be considered a submission under 37 CFR 1.114. See 37 CFR 1.114(d). The submission, however, may consist of the arguments in a previously filed appeal brief or reply brief, or may simply consist of a statement that incorporates by reference the arguments in a previously filed appeal brief or reply brief. In addition, a previously filed amendment after final may satisfy this submission requirement. American Inventor's Protection Act of 1999, Question & Answer A5.

NOTE: Even though an RCE is improper (e.g., because it was filed before the prosecution is closed), an amendment submitted with the RCE will still be entered and considered by the examiner since it was timely filed and responsive to the non-final Office action in compliance with 37 CFR 1.111. American Inventor's Protection Act of 1999, Question & Answer A4.

WARNING: 35 U.S.C. 132(b) and § 1.114 provide for the continued examination of an application and not examination of a continuing application). Accordingly, the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

WARNING: The provisions of 37 CFR 1.114 also do not apply (1) to a provisional application; (2) an application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995; (3) an international application filed under 35 U.S.C. 363 before June 8, 1995; (4) a patent under reexamination or (5) an application for a design patent. 37 CFR § 1.114(e).

WARNING: The PTO has pointed out why § 1.97(b) does not provide that an information disclosure statement will be considered if it is filed within three months after the date of a request for continued examination under § 1.114. The PTO explained that since an RCE filing is a reply under 35 U.S.C. 132, the applicant may be entitled to patent term adjustment if the Office does not act on an application containing a request for continued examination under § 1.114 within four months. See 35 U.S.C. 154(b)(1)(A)(ii). Thus, the Office cannot delay action on RCE applications for three months to determine whether an information disclosure statement will be filed. The Office, however, is adopting provisions (§ 1.103(c)) for a limited suspension of action after the filing of a request for continued examination under § 1.114, for the applicant to obtain additional time (prior to the issuance of the next Office action) to provide an information disclosure statement (or amendments, or an affidavit or declaration) after the filing of the RCE. See, Notice of August 16, 2000, "Request for Continued Examination Practice and Changes to Provisional Application Practice; Final Rule", 65 Fed. Reg., pages 50091-50105, at page 50100 (comment 11); OG: September 5, 2000, pages 13-24

WARNING: One of the time periods excluded from patent term adjustment is the time consumed by a continued examination request under 35 U.S.C. 132(b) (§ 1.114(b) (1)).

WARNING: The Office will not suspend action in an application when a reply by the applicant is outstanding. 35 U.S.C. 133 requires an applicant to "prosecute the application" within six months of an Office action (or a shorter period as set in the Office action) to avoid abandonment of the application. If an applicant files a request for continued examination but does not also provide any submission (in reply to the prior Office action) within the period for reply to the prior Office action, the application is abandoned by operation of law (35 U.S.C. 133).

The Office will treat a request for continued examination under § 1.114 containing a bona fide submission that is not fully responsive to the prior Office action under the practice set forth in § 1.135(c). In addition, under the limited suspension of action provisions of § 1.103(c), an applicant must still file a request for continued examination practice in compliance with § 1.114, but may obtain additional time (prior to the issuance of the next Office action) to provide an information disclosure statement, amendments, or an affidavit or declaration after the filing of the request for continued examination.

(Request for Continued Examination (RCE) (37 C.F.R. § 1.114) [8-64]—page 2 of 6)

See, Notice of August 16, 2000, "Request for Continued Examination Practice and Changes to Provisional Application Practice; Final Rule", 65 Fed. Reg., pages 50091-50105, at page 50102 (comment 20); OG: September 5, 2000, pages 13-24] Page 50102

WARNING: Section 1.97(b) does not provide that an information disclosure statement will be considered if it is filed within three months after the date of a request for continued examination under § 1.114.

NOTE: There is no limit to the number of times the fee for continued examination may be submitted. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

NOTE: Unlike a continuation application, a continued examination request can utilize the mailing procedure of 37 CFR 1.8. See 37 CFR § 1.8(a)(2)(i)(A).

Continued Prosecution Request Fee \$ 770.00

TIME REQUEST IS BEING MADE

2. This request is being submitted (check appropriate item(s) below):

- i. ☒ Prior to abandonment of the application
- ii. ☐ Payment of the issue fee
 - ☐ Prior to payment of issue fee
 - ☐ Issue fee has been paid but a petition under § 1.313 has been granted
- iii. ☐ Prior to a decision on appeal to the Board of Patent Appeals & Interferences
 - ☐ A notice is being separately sent to the Board of Patent Appeals & Interferences that this Request for Continued Examination is being filed.

NOTE: If such a notice is not sent to the Board then may refuse to vacate a decision rendered after the filing of the RCE but before recognition by the Office of the RCE request under § 1.114.

- iv. ☐ Appeal to the U.S. Court of Appeals of the Federal Circuit under 35 U.S.C. 145 or ☐ Commencement of a civil action under 35 U.S.C. 146
 - ☐ Prior to the filing of such appeal or commencement of civil action
 - ☐ Such appeal or commencement of civil action has been terminated

ENCLOSURES

3. Enclosed herewith is/are:

WARNING: If reply to a final or non-final Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111. 37 C.F.R. § 1.114(b).

- ☒ An information disclosure (37 C.F.R. § 1.98)
 - ☒ Form PTO-1449 (PTO/SB/08A and 08B)
- ☐ An amendment
- ☐ New arguments
- ☐ New evidence in support of patentability
- ☒ Other:
 - 1) Response to Decision on Petitions (2pp.)
 - 2) Copy of Petition under 37 CFR 1.137(b), et al. (9pp.)
 - 3) Copy of Associate Power of Attorney
 - 4) Petition for Withdrawal from Issue

Continued Prosecution Request Fee \$ 770.00

(Request for Continued Examination (RCE) (37 C.F.R. § 1.114) [9-84]—page 3 of 8)

FEE FOR REQUEST (37 C.F.R. § 1.17(e)).**4. This application is on behalf of:**

- ☐ Small entity (and status is still as small entity) \$375.00
- ☒ Other than a small entity \$770.00

FEE FOR CLAIMS

NOTE: "The fee for continued examination under § 1.114 (§ 1.17(e)) does not include additional claims fee (cf. 1.53 (d)(3)(ii))." See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

37 CFR 1.53(d)(3): "The filing fee for a continued prosecution application filed under this paragraph is:

(i) The basic filing fee as set forth in § 1.16; and

Any additional § 1.16 fee due based on the number of claims remaining in the application after entry of any amendment accompanying the request for an application under this paragraph and entry of any amendments under § 1.116 unentered in the prior application which applicant has requested to be entered in the continued prosecution application."

5. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)		SMALL ENTITY		OTHER THAN A SMALL ENTITY	
CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR		PRESENT EXTRA		ADDIT. FEE		OR RATE	
TOTAL	7	MINUS	20	=	0	x\$9=	\$	x\$18=	\$ 0
INDEP.	1	MINUS	3	=	0	x\$42=	\$	x\$84=	\$ 0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM						+\$140=		+\$280=	
						TOTAL ADDIT. FEE \$		OR TOTAL ADDIT. FEE \$ 0	

* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.

** If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20."

*** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: See 37 C.F.R. § 1.116.

(complete (a) or (b), as applicable)

(a) ☒ No additional fee is required.

OR

(b) ☐ Total additional fee required is \$ _____

(Request for Continued Examination (RCE) (37 C.F.R. § 1.114) [9-64]—page 4 of 6)

EXTENSION OF TIME

(If an extension of time is appropriate complete (a) or (b), as applicable)

6. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. § 1.136(a) apply.

NOTE: 37 C.F.R. § 1.704(b) ". . . an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

- (a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a)(1)-(4), for the total number of months checked below:

Extension for (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 410.00	\$ 205.00
<input type="checkbox"/> three months	\$ 930.00	\$ 465.00
<input type="checkbox"/> four months	\$ 1,450.00	\$ 725.00

Fee: \$ _____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for _____ months has already been secured, and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

OR

- (b) ☒ Applicant believes that no extension of time is required. However, this is a conditional petition and authorization to pay the necessary fees to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE(S) DUE

WARNING: The fee for continued examination under § 1.114 may not be deferred. 37 C.F.R. § 1.53(f).

7. The total fee(s) due is/are:

Continued Prosecution Fee (§ 1.17(e))	\$ <u>770.00</u>
Fee(s) for additional claims (if any) (§ 1.16(b)-(d))	\$ _____
Extension of time fee (if any) (§ 1.17(a)(1)-(4))	\$ _____
Total Fee(s) Due	\$ <u>770.00</u>

(Request for Continued Examination (RCE) (37 C.F.R. § 1.114) [9-84]—page 5 of 6)

PAYMENT OF FEE(S) DUE

8. Please pay the fee(s) for this continued examination application as follows:

- ☒ Check is attached for the sum of \$ 770.00
☐ Charge Account _____ the sum of \$ _____
☐ Charge Credit Card the sum of \$ _____
(Credit Card Payment Form (PTO-2038) attached)

Please charge any required additional fee(s) for § 1.17(e), § 1.16(b)-(d) and/or § 1.17(a)(1)-(4) to

- ☒ Account 23-0442
☐ Credit Card (Credit Card Payment Form (PTO-2038) attached).

INVENTORSHIP

NOTE: Any change of inventors must be via the procedure set forth in 37 CFR § 1.48. See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

9. This application as amended names as inventors:

- ☒ the same inventors as previously designated for the claims.
☐ fewer than the inventors previously designated and a statement accompanies this request for the deletion of the name or names of the person or persons who are not inventors of the invention now being claimed.
☐ a person not named previously as an inventor and a petition under 37 C.F.R. § 1.48 is/has separately: ☐ being filed ☐ been filed

DEFERRAL OF EXAMINATION

10. ☐ A request for deferral of examination accompanies this request for continued examination.

Reg. No.: 41,266

Tel. No.: (203) 261-1234

Customer No.: 004955


SIGNATURE OF PRACTITIONER

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(Request for Continued Examination (RCE) (37 C.F.R. § 1.114) [9-64]—page 6 of 6)

WARE FRESSOLA
VAN DER SLUYS & ADOLPHSON LLP

PAY SEVEN HUNDRED SEVENTY AND NO/100
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